

REMARKS

The paragraph beginning on page 8, line 21, of the Specification has been amended to reflect that the internal cavity is accessible through at least one opening. Support for this amendment is found in Claim 1, as originally filed. Further, Applicants' Specification has been amended on page 8, line 31, to reflect that the front panel 24 and back panel 26 are also the first and second sides, respectively. Support for this amendment is found in Claim 1, as originally filed. No new matter has been presented in Applicants' amended Specification.

Claims 1 and 13 have been amended to claim a semi-enclosed applicator comprising, *inter alia*, a first side and second side, wherein the first and second sides are joined in a face-to-face relationship to form an internal cavity therebetween. Support for the current amendments to Claims 1 and 13 is found in Claims 1 and 13, as originally presented, and in the Specification on page 8, lines 27 – p. 9, line 3. Additionally, Claims 1, 13, and 17 have been amended to require that an activatable self-enclosed heating and/or cooling element be disposed proximate to the semi-enclosed applicator. Support for this amendment to Claims 1, 13, and 17 is found on the Specification on page 33, line 28, *et seq.*, as originally presented. Additionally, Claims 2, 11, 18, and 20 have been amended to provide antecedent basis for the terms now presented in Applicants' newly amended Claims 1, 13, and 17, respectively. Additionally, Claim 4 has been amended to delete one Markush limitation. No new matter has been presented in amended Claims 1, 2, 4, 11, 13, 17, 18, and 20. Claims 1-2, 4-9, 11-20 remain in the instant Application and are presented for the Examiner's review in light of the above amendments and the following comments.

Objections to the Specification

The Examiner has objected to Applicants' Specification for two informalities. Consistent with the Examiner's objection, Applicants have amended the Specification on page 8 to provide description for the first and second sides. Additionally, Applicants' claims have been amended to delete recitation of elements directed toward internal and external surfaces. Applicants respectfully request removal of the Examiner's objection.

The Examiner has also objected to Applicants' Specification on page 40, line 10, because the IFW shows the appropriate line to read, "In another embodiment, Figures 44 and 45, of a heating element may include use" Applicants' review of the 35 U.S.C. §371 filing (in particular, the Specification of WIPO Publication No. 01/26499 (PCT/US00/27967)) to which this Application claims priority, does not show this error. Therefore, Applicants respectfully believe this error to have occurred during the entry of the priority application into the USPTO IFW system. Therefore, Applicants are not sure how to amend the Specification, as requested by the Examiner, since this error

is not shown in any of the relevant priority documentation. Applicants respectfully request withdrawal of this objection. Alternatively, if the Examiner would like to provide an Examiner's Amendment to the IFW application obviating this objection, Applicants would be so disposed.

Rejections Under 35 U.S.C. §112

Claims 1, 2, 4-9, and 11-20 have been rejected under 35 U.S.C. §112, ¶1 for not providing enablement for "at least one . . . opening." Accordingly, Applicants have amended the Specification so that the paragraph beginning on page 8, line 21, now reads, in relevant part, "In general terms, the mitt 10 has at least one internal cavity that is accessible through at least one opening in the cuff portion...." Support for this amendment to the Specification is found in Claim 1, as originally presented. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §112, ¶1 rejection accordingly.

Claims 1, 2, 4-9, and 11-20 have been rejected under 35 U.S.C. §112, ¶1 for Applicants' use of the claim limitation "an activatable temperature changing element." By amendment herein, Applicants have amended the relevant claims to recite the claim limitation "heating and/or cooling element." Applicants respectfully request withdrawal of this 35 U.S.C. §112, ¶1 rejection accordingly.

Claims 4 and 5 have been rejected under 35 U.S.C. §112. By amendment herein, Applicants have deleted this limitation from the Markush group and request reconsideration and withdrawal of the Examiner's rejection.

Claim 14 has been rejected under 35 U.S.C. §112, ¶1 for placement of the temperature changing element on the first external surface. Applicants respectfully traverse this rejection and direct the Examiner's attention to the Specification on page 41, line 28, as originally filed. Applicants state, "In some embodiments, it may also be desirable that the product exit from the reservoir 30 onto the heating/cooling pouch 302. For example if the mass of the product released is small, the temperature of the product may change in temperature quickly as it is applied to a cooler surface. If the product is released onto the heating/cooling pouch 302, however, the heating/cooling pouch may be pressed against the target surface as the product is applied. **Thus, the actual contact of the heating pouch 302 to the surface may provide an additional conductive heating/cooling effect.**" (Emphasis added)

If the product is released onto the heating/cooling pouch and the heating/cooling pouch is contacting the surface to provide an additional conductive heating/cooling effect, then the heating/cooling pouch is disposed upon the first external surface of the claimed semi-enclosed applicator. Thus, the deposition of product exiting the reservoir onto the heating/cooling pouch when the pouch is in actual contact with the subject surface indeed provides support for a heating/cooling element to be located on the first external surface of the claimed semi-enclosed applicator. Thus,

Claim 14 is not directed to new matter, and Applicants respectfully request reconsideration and withdrawal of the Examiner's 35 U.S.C. §112, ¶1 rejection.

Claims 17-20 have been rejected under 35 U.S.C. §112, ¶1 for providing an activatable self-enclosed temperature changing element disposed within the product. Applicants respectfully traverse this rejection and direct the Examiner's attention to page 42, lines 31-32, of the Specification, as originally filed. Applicants state that, "Alternatively, a heating/cooling element such as the pouch 302 **may be located internally in the reservoir 30** to allow for a combination of conductive and convective heat transfer..." (Emphasis added) Since the rupturable reservoir contains a product and an activatable self-enclosed heating and/or cooling element is disposed within the reservoir, the self-enclosed heating and/or cooling element can be disposed within the rupturable reservoir. Claim breadth should not be equated with indefiniteness. (M.P.E.P. §2173.04) Applicants therefore respectfully request withdrawal of the Examiner's 35 U.S.C. §112, ¶1 rejection to Claims 17-20 herewith.

Rejection Under 35 U.S.C. §103

Claims 1, 2, 4-7, 9, 13, 15, and 16 have been rejected under 35 U.S.C. §103(a) over *Sansonetti*, U.S. Patent No. 4,087,675 in view of *Cahill*, U.S. Patent No. 3,116,732. Previous arguments regarding the *Sansonetti* and *Cahill* references remain in effect but will not be repeated for the sake of brevity. Applicants respectfully traverse this rejection for the following additional reasons:

1. Applicants' Claims 1, 13, and 17 each require the product to be released from the reservoir to the target surface **through said first side** upon application of pressure to the rupturable reservoir.

2. With regard to the *Sansonetti* reference, the heated mitten 10 includes an inner mitten 12 shown placed on a human hand 14. (2:22-23) A reservoir 18 is provided **in the inner mitten 12** for the retention of hand cream 20 or the like. (2:27-29; emphasis added) Heat is then applied to the inner mitten 12, thereby melting the membrane 22 releasing a pre-measured quantity of the hand cream 20 **onto the hand inserted therein**. (2:31-35; emphasis added) The hand cream is not disposed to the target surface **through** the mitten.

3. Likewise, the *Cahill* reference provides an inwardly releasable hand treatment that is disposed upon an inner glove layer 2 through openings 4 **onto a hand inserted therein**. (1:35-41; emphasis added) The hand treatment is not disposed to the target surface **through** the glove.

Thus, there is no teaching, or even a suggestion, in either the *Sansonetti* or *Cahill* references to provide for the transmission of a product located within a rupturable reservoir inserted within an internal cavity of a semi-enclosed applicator to a target surface through a first side, as required by Applicants' independent Claims 1, 13, and 17. Thus, the *Sansonetti* and *Cahill* references fail to disclose, teach, suggest, or render obvious, either singly or in combination, every recited feature of

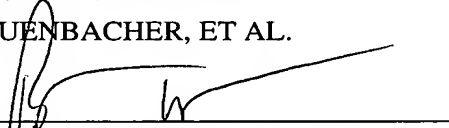
Applicants' amended Claims 1, 13, and 17. Absent any motivation to transmit a product contained within a reservoir placed within a semi-enclosed applicator through a side comprising the semi-enclosed applicator onto a target surface, the combination of the *Sansonetti* and *Cahill* references cannot render any of the rejected claims obvious. *See In re Fine*, 837 F.2d 1071 (Fed.Cir. 1988); M.P.E.P. §2143.01. Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Applicants' independent Claims 1, 13, and 17 over the *Sansonetti* and *Cahill* references. Accordingly, because Claims 2, 4-9, 11-12, 14-16, and 18-20 all depend directly or indirectly upon Applicants' independent Claims 1, 13, and 17, they contain all of their respective limitations. Therefore, for the reasons cited above regarding the rejection of Claims 1, 13, and 17, Applicants respectfully request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to the claims dependent thereon.

Conclusion

Based on all the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512. If any additional charges are due, the Examiner is authorized to deduct such charges from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,
GRUENBACHER, ET AL.


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